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August 15, 2013

VIA ECF

Honorable Freda L. Wolfson
United States District Court Judge
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

Re: *In re: Johnson & Johnson Derivative Litigation*
Civil Action No. 10-2033 (FLW), 11-4993(FLW), 11-2511 (FLW)

Dear Judge Wolfson:

We are Court-appointed co-Lead Counsel for the Demand-Futile Plaintiffs in the above-referenced action. On behalf of all Plaintiffs, we respectfully submit this Notice of Decision of a recent opinion in the United States District Court for the Southern District of New York – *City of Livonia Employees' Retirement System v. Wyeth, et.al.*, No 7 Civ. 10329 (RJS), which is attached hereto as Exhibit A. Notably, the court in that case specifically considered, and firmly rejected, what it described as a “dogmatic objection to counsel’s fee award” made by Mr. Frank, as counsel, on behalf of a Mrs. Julia Petri, as the purported objector. Among other things, the court noted that:

Indeed, Petri's objection on this count does not seem grounded in the facts of this case, but in her and her attorney's objection to class actions generally. *Compare In re AOL Time Warner, Inc. Sec. & ERISA Litig.*, No. MOL 1500, 2006 WL 903236, at *8 (S.D.N.Y. Apr. 6, 2006) (noting inherent difficulty and risk of prosecuting PSLRA cases); with *Lonardo v. Travelers Indem. Co.*, 706 F. Supp. 2d 766,785 (N.D. Ohio 2010) (finding a brief filed by Frank, Petri's attorney, objecting to a class action settlement to be "long on ideology and short on law"). Second, Petri evinces a misguided yet fervent focus on the lodestar cross-check, arguing that the requested multiplier or any multiplier - would be inappropriate in this action. (See Obj. at 3-12.) However, as noted, the multiplier is merely a "check" in determining a reasonable fee and multipliers have been regularly endorsed in this district. If this and other courts were routinely to reduce counsels' fee awards to their costs, there would be considerably less incentive for counsel to represent plaintiffs in actions of this sort. Petri provides no availing reason why

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the Court should reduce attorneys' fees in this action, and the Court therefore rejects as entirely unreasonable her and her attorney's dogmatic objection to counsel's fee award in this action.

We believe that the reasoning and logic of the *Wyeth* decision apply here to the purported objection filed by Mr. Petri, again via the Petris' counsel, Ted Frank. In particular, Mr. Petri's renewed objection to the application of a lodestar multiplier to determine a reasonable fee award in this case, as in *Wyeth*, ignores both the relevant facts and the applicable law. Also as in *Wyeth*, Mr. Petri's objection to the application of a multiplier here ignores the risk of non-recovery and non-payment undertaken by counsel in pursuing this case on a contingent basis, disregards the well-established law approving the use of multipliers to account for such risk as well as the meaningful benefits achieved through counsel's efforts, and reflects Mr. Frank's general opposition to class and derivative litigation and fee awards in such litigation.

We thank the Court for its continued attention to this matter.

Respectfully submitted,

CARELLA, BYRNE, CECCHI,
OLSTEIN, BRODY & AGNELLO

/s/ James E. Cecchi

JAMES E. CECCHI

Enclosures

cc: All counsel (via ECF)